



PATENT

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Necdet Uzun and Mete Yilmaz
Assignee: Cisco Technology, Inc.
Title: Weighted Fairness Decisions In SRP Forwarding Block
Serial No.: 09/854,416 Filing Date: May 11, 2001
Examiner: Le Hien Luu Group Art Unit: 2141
Docket No.: CIS0161US Client Ref. No.: 5118

Austin, Texas
January 3, 2006

Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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**APPLICATION FOR PATENT TERM ADJUSTMENT
PURSUANT TO 37 CFR § 1.705**

Dear Sir:

The applicants hereby request reconsideration of the patent term adjustment indicated in the notice of allowance for the above-identified application. Please charge Deposit Account No. 502306 for the fee of \$200.00 for this application as set forth in 37 CFR § 1.18(e).

Pursuant to 37 CFR § 1.705(b), the applicants respectfully set forth the following facts.

1. The patent term adjustment calculation for the present application shows 774 days due to USPTO delay, and a 224 day delay caused by the applicant, yielding a total calculated patent term adjustment (PTA) of 550 days (see attached copy of calculation). The applicants respectfully submit that they are entitled to a PTA of 774 days, i.e., no reduction because there was no delay on the part of the applicant.
2. The purported applicant delay is based on receipt of a Response to Non-Final Action on July 5, 2005, and a mailing date of the corresponding Non-Final Office Action of August 23, 2004.


01/06/2006 HVUONG2 00000023 502306 09854416

03 FC:1455 200.00 DA

3. According to the first page of the Non-Final Office Action of August 23, 2004 (see attached copy), the Office Action was mailed to applicants' previous counsel, Fish & Richardson.
4. The original Non-Final Office Action of August 23, 2004 was never received by the applicants' current representatives.
5. The applicants properly changed the address of correspondence from previous counsel to the firm of the undersigned attorney via customer number spreadsheet on or about July 3, 2002 (see attached copy) and again on or about September 10, 2002 (see attached copy).
6. The applicants believed the change of address of (5) was effective because: (a) a response to a Request for Status was received by the undersigned attorney at the correct address on December 11, 2003 (see attached copy); and (b) Examiner Luu contacted an attorney (Sam Campbell) with the undersigned attorney's firm regarding a restriction requirement on August 16, 2004 (see attached copy of p. 3 of Non-Final Office Action of August 23, 2004, no. 5).
7. The applicants believe that the Non-Final Office Action of August 23, 2004 was sent in error, and through no fault of their own, to previous counsel.
8. The undersigned attorney for the applicants received a facsimile of the Non-Final Office Action of August 23, 2004 from Examiner Luu on April 4, 2005 (see attached copy). This facsimile was transmitted to the undersigned attorney for the applicants after the Examiner contacted the undersigned attorney for the applicants via telephone regarding the abandonment of the application.
9. On May 3, 2005, less than one month from receiving the Non-Final Office Action, the applicants filed a Petition to Withdraw Holding of Abandonment and a Response to Non-Final Office Action. The Petition and Response were received by the USPTO on May 6, 2005. (see attached copy of post card).
10. On May 10, 2005, for reasons unknown to the applicants, the period for response of the August 23, 2004 Non-Final Office Action was restarted, i.e., the Non-Final Office Action with a new mail date was sent to the undersigned attorney for the applicants.
11. On July 1, 2005, less than two months later, the applicants submitted a Response to Non-Final Office Action in response to the Non-Final Office Action of May 10, 2005. The July 1, 2005 Response was received by the USPTO on July 5, 2005 (see attached copy of post card). This response was sent after consultation with SPE Pinchus Laufer, the SPE to which the applicants' Petition to Withdraw Holding of Abandonment was assigned.

12. Thus, based on the two points in time from which a response by the applicants can reasonably be measured, April 4, 2005 and May 10, 2005, the USPTO received a proper response in less than three months (May 6, 2005, and July 5, 2005, respectively).
13. The patent resulting from the above-identified application will not be subject to a terminal disclaimer.
14. Accordingly, the applicants respectfully submit there are no circumstances during the prosecution of application that constitute failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 CFR § 1.704, and the applicants are entitled to the full 774 day PTA.

In view of the remarks set forth herein, the applicants believe the patent term adjustment should be corrected. Should any issues remain that might be subject to resolution through a telephonic interview, the examiner is requested to telephone the undersigned.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Issue Fee, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, on January 3, 2006.	
 Attorney for Applicant(s)	<u>1/3/06</u> Date of Signature

Respectfully submitted,



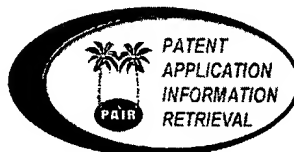
Marc R. Ascolese
Attorney for Applicant(s)
Reg. No. 42,268
512-439-5085
512-439-5099 (fax)



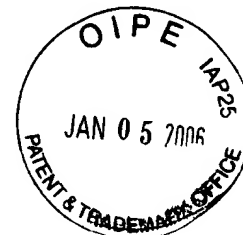
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PATENT APPLICATION INFORMATION RETRIEVAL



Patent Term Adjustment (PTA) for publication number: 09/854,416			
			Days
Filing or 371(c) Date:	05-11-2001	USPTO Delay (PTO):	774
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL):	224
Post-Issue Petitions (days):	+0	Total PTA:	550
USPTO Adjustment (days):	+0	Explanation of Calculations	



Search Options

Assignments
Display References
Image File Wrapper
File History
Publication Review

Patent Term Adjustment History			
Date	Contents Description	PTO (days)	APPL (days)
10-06-2005	Mail Notice of Allowance		
10-04-2005	Notice of Allowance Data Verification Completed		
10-04-2005	Case Docketed to Examiner in GAU		
05-06-2005	Information Disclosure Statement considered		
06-13-2002	Information Disclosure Statement considered		
07-05-2005	New or Additional Drawing Filed		
07-20-2005	Date Forwarded to Examiner		
07-05-2005	Response after Non-Final Action		224
05-06-2005	Information Disclosure Statement (IDS) Filed		↑
05-06-2005	New or Additional Drawing Filed		↑
05-06-2005	Miscellaneous Incoming Letter		↑
05-10-2005	Mail Notice of Restarted Response Period		↑
05-09-2005	Letter Restarting Period for Response (i.e. Letter re: References)		↑
05-09-2005	Correspondence Address Change		↑
03-05-2005	Correspondence Address Change		↑
03-07-2005	Change in Power of Attorney (May Include Associate POA)		↑
08-23-2004	Mail Non-Final Rejection	774	↑
08-20-2004	Non-Final Rejection	↑	
08-02-2004	Case Docketed to Examiner in GAU	↑	
05-27-2004	IFW TSS Processing by Tech Center Complete	↑	
01-30-2004	Case Docketed to Examiner in GAU	↑	
11-12-2002	Case Docketed to Examiner in GAU	↑	
10-04-2002	Case Docketed to Examiner in GAU	↑	

06-13-2002	Information Disclosure Statement (IDS) Filed	↑	
06-14-2002	Change in Power of Attorney (May Include Associate POA)	↑	
06-13-2002	Correspondence Address Change	↑	
06-14-2002	Record Petition Decision of Granted Related to Attorney	↑	
09-24-2001	Petition Entered	↑	
06-03-2002	Correspondence Address Change	↑	
07-30-2001	New or Additional Drawing Filed	↑	
06-03-2002	Case Docketed to Examiner in GAU	↑	
09-27-2001	Application Dispatched from OIPE	↑	
07-11-2001	Application Is Now Complete	↑	
07-11-2001	Notice Mailed--Application Incomplete--Filing Date Assigned	↑	
07-10-2001	Correspondence Address Change	↑	
05-18-2001	IFW Scan & PACR Auto Security Review	↑	
05-11-2001	Initial Exam Team nn	↑	



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Washington, D.C. 20231

Number of pages including this page 10

REF (Application serial number) 09/854,416

DATE 4/4/05

TO

Mr. Marc R. Ascolese
NAME

COMPANY

512-439-5099

FAX NUMBER

FROM

LE HIEN LUU

(703) 305-9650

(703) 308-5359 (FAX)

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PATENT EXAMINING GROUP 2300
COMPUTER SYSTEMS

COMPUTER APPLICATIONS

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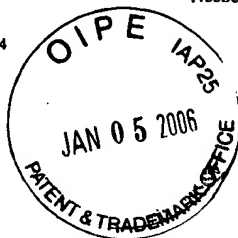


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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/854,416	05/11/2001	Necdet Uzun	12801-007001	7677

7590 08/23/2004
Fish & Richardson P.C.
2200 Sand Hill Road
Suite 100
Menlo Park, CA 94025



EXAMINER

LUU, LE HIEN

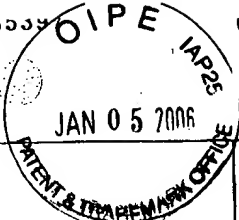
ART UNIT PAPER NUMBER

2141

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

COPY



Office Action Summary

Application No.

09/854,416

Applicant(s)

UZUN ET AL.

Examiner

Le H Luu

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/11/01 to 3/06/02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 22-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-9, 13 and 17-21 is/are rejected.
- 7) ☒ Claim(s) 3, 4, 10-12 and 14-16 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 7/30/01 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

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Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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1. Claims 1-28 are presented for examination.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-21, drawn to computer to computer data transfer regulating, classified in class 709, subclass 232.
 - II. Claims 22-28, drawn to input / output data buffer, classified in class 710, subclass 52.
3. The inventions are distinct, each from the other because of the following reasons:

Inventions Group I and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention Group I has separate utility such as determine allowed usage for a node for servicing transmit and transit traffic, Group II has separate utility such as service transmit and transit buffers based on threshold values. See MPEP § 806.05(d).
4. The inventions are distinct, each from the other because of the following reasons:
 - a. These inventions have acquired a separate status in the art as shown by their different classification
 - b. The search required for one Group is not required for the other Groups

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For the reasons above restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Mr. Samuel Campbell on 08/16/2004 a provisional election was made without traverse to prosecute the invention of GROUP I, claims 1-21. Affirmation of this election must be made by applicant in responding to this Office action. Claims 22-28 are withdrawn from further consideration by the Examiner, 37 C.F.R. § 1.142(b), as being drawn to a non-elected invention.

6. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is requested to formally cancel the non-elected claims.

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(h).

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9. Figures 1-2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

10. Claims 2 and 13 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 2 and 13, it is not clear which "the usage data" is being forward to an upstream node. For purpose of examination, Examiner assume that the usage data of the node is being forwarded to an upstream node.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the

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international application designated the United States and was published under Article 21(2) of such treaty in the English language.

or

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

12. Claims 1-2, 5-9, 13, and 17-21 are rejected under 35 U.S.C. § 102(e) as being anticipated by Lothberg et al. (Lothberg) patent no. 6,775,295.

13. As to claim 1, Lothberg teaches the invention as claimed, including a method for servicing transit and transmit traffic in a node of a network, the network including a plurality of nodes connected by first and second rings formed by two or more transmission media, the method comprising:

receiving usage data from a downstream node (col. 6 lines 52-59);

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Identifying a first weighted value associated with a provisioning rate associated with the downstream node and a second weighted value associated with a provisioning rate of the node (col. 6 lines 52-59; col. 9 lines 36-52);

determining an allowed usage for the node using the usage data and the first and second weighted values (col. 7 line 34 - col. 9 line 52); and

servicing transmit and transit traffic received at the node including limiting the servicing of the transmit traffic in accordance with the determined allowed usage (col. 7 line 34- col. 9 line 52).

14. As to claim 2, Lothberg teaches determining usage data for the node based on the usage data received from the downstream node; and forwarding the usage data of the node to an upstream node (col. 7 lines 34-50).

15. As to claims 5-7, Lothberg teaches receiving the first weighted value with the usage data as a scalar from the downstream node; and retrieving the first and second weighted values from a table (col. 7 line 34 - col. 9 line 52).

16. Claims 8-9, 13, and 17-21 have similar limitations as claims 1-2 and 5-7; therefore, they are rejected under the same rationale.

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17. Claims 3-4, 10-12, 14, and 15-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Le H. Luu, whose telephone number is (703) 305-9650. The examiner can normally be reached Monday through Friday from 7:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia, can be reached at (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is (703) 746-7240.

Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-9600.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for formal communications; please mark
"EXPEDITED PROCEDURE").

Or:

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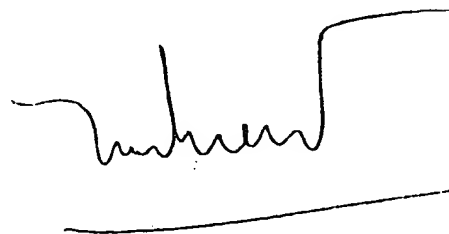
Application/Control Number: 09/854,416

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(703) 872-9306 (for informal or draft communications, please label
"PROPOSED" or "DRAFT").

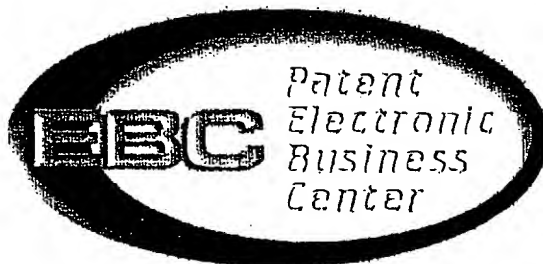
Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal
Drive, Arlington, VA., Sixth Floor (Receptionist).



LE HIEN LUU
PRIMARY EXAMINER

August 17, 2004

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JUL 02 2002



FROM MARC ASCOLESE

To: Samuel G. Campbell, III

TO

~~From:~~ Keith E. Peterson

703-308-2840

Fax: 512-439-5084**Date:** July 2, 2002 JULY 3, 2002**Phone:** 512-439-5084**Pages:** 13 (Including Cover Sheet)**Re:** CN Upload for CN 33031**CC:**☐ **Urgent** ☐ **For Review** ☐ **Please Comment** ☐ **Please Reply** ☐ **Please Recycle**

We are in receipt of your spreadsheet to associate your applications/patents with your customer number. We have compared the correspondence addresses of the applications/patents numbers from the list with the existing correspondence addresses in the PALM database and have generated a list of mis-matched addresses (error report). Please see the attached spreadsheet.

Please review all applications and patents on the attached error report spreadsheet. Once you have verified whether or not you wish to associate all of these numbers with your customer number, please mark them as such on the attached spreadsheet (i.e., yes or no) and fax it back to me at (703) 308-2840. Please note that once the Patent Electronic Business Center processes the final corrected list, the correspondence and maintenance fee addresses for each application found on the corrected list will be associated with the correspondence address from your customer number. **Detailed review and verification of the application and patent numbers on the error report list is critical because any application or patent on the approved final corrected list that should not have been included will be disassociated from its proper correspondence address and assigned to you.**

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If you have any questions, please feel free to contact me at 1-866-217-9197 (toll free) or 1-703-305-3028.

Sincerely,

Keith E. Peterson

*Here are the correction!**Thanks***COPY***Man Ah*

33031

REDACTED

09854416 9600 GREAT HILLS TRAIL, SUITE 300W, AUSTIN, TX 78759, US SAM CAMPBELL, ESQ, SKJERVEN, MORRILL, MACPHERSON LLP

YES

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YES

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**To:** Samuel G. Campbell, III**From:** Keith E. Peterson**Fax:** 512-439-5099**Date:** September 10, 2002**Phone:** 512-439-5084**Pages:** 12 (Including Cover Letter)**Re:** CN Upload for CN 33031**CC:**

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Please review all applications and patents on the attached error report spreadsheet. Once you have verified whether or not you wish to associate all of these numbers with your customer number, please mark them as such on the attached spreadsheet (i.e., yes or no) and fax it back to me at (703) 308-2840. Please note that once the Patent Electronic Business Center processes the final corrected list, the correspondence and maintenance fee addresses for each application found on the corrected list will be associated with the correspondence address from your customer number. **Detailed review and verification of the application and patent numbers on the error report list is critical because any application or patent on the approved final corrected list that should not have been included will be disassociated from its proper correspondence address and assigned to you.**

Notice that if the correspondence address comparison performed by the PEBC turns up a large number of applications on the error report, you may be asked to provide a new spreadsheet more consistent with the results shown from the error report.

If there are NO changes to be made, you can just fax me back to let me know that it is ok to associate all files with your customer number.

If you have any questions, please feel free to contact me at 1-866-217-9197 (toll free) or 1-703-305-3028.

Sincerely,

Keith E. Peterson

308 6910 ?

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Date: 12/8/03

CAMPBELL STEPHENSON ASCOLESE, LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN TX 78759

To: Applicant of Serial Number 09854416 (Art Unit 2143)

We currently project that it will be more than 15 months before this application will receive a first office action. This is because the application is classified in a technology that has experienced a large filing rate growth over the last few years. The Office is addressing the growth by adjusting examination resources accordingly. You may wish to consult the MPEP (708.02) to see if filing a petition to make special is appropriate.

Customer Service Office in Technology Center: 2100

Phone Number: 703-305-3900

FAX Number: 703-872-9306

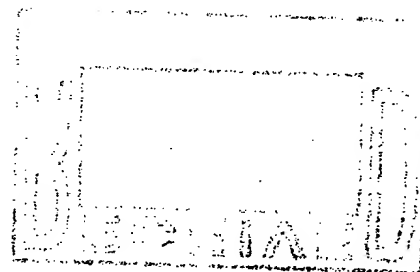
Applicant/Attorney Contact Information:

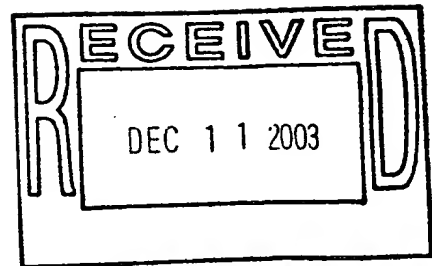
Telephone: (512)426-5787

Fax: (512)794-3601

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DATE
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MAIL STOP PETITION
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Applicants: Necdet Uzun and Mete Yilmaz
Assignee: Cisco Technology, Inc.
Title: Weighted Fairness Decisions in SRP Forwarding Block
Serial No.: 09/854,416
Filed: May 11, 2001
Atty Docket No.: CIS0161US

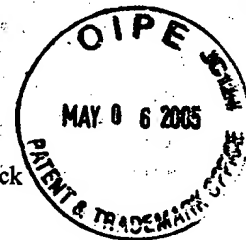
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1. This Return Receipt Postcard;
2. Transmittal Letter – 1 page (*in duplicate*);
3. Petition to Withdraw Holding of Abandonment (with 5 supporting documents) – 21 pages;
4. Response to Non-Final Office Action of August 23, 2004 – 13 pages;
5. Replacement Sheets (*Figures 1 and 2*) – 2 sheets;
6. Information Disclosure Statement Under 37 C.F.R. §1.97(c)(2) – 2 pages;
7. PTO 1449 – 1 page; and
8. Copy of 1 cited reference.

MRA/lc
May 3, 2005

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MRA/lc
May 3, 2005

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MAIL STOP AMENDMENT
COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450

Applicants: Necdet Uzun and Mete Yilmaz
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MRA/lc
July 1, 2005

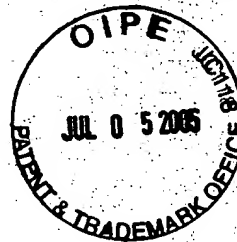
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July 1, 2005



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